

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

AMARILLO AREA TRANSGENDER
ADVOCACY GROUP,

Plaintiff,

v.

CITY OF CANYON, TEXAS,

Defendant.

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2:24-CV-00199

DEFENDANT’S ORIGINAL ANSWER TO PLAINTIFF’S ORIGINAL COMPLAINT

COMES NOW Defendant City of Canyon, Texas (“*Defendant*”) and files this Original Answer to Plaintiff’s Original Complaint and shows the Court as follows:

INTRODUCTION

1. Defendant denies the allegations in Paragraph 1.
2. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 2.
3. Defendant denies the allegations in Paragraph 3.
4. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 4.
5. Defendant denies the allegations in the first sentence in Paragraph 5. Defendant admits the allegations in the fourth sentence in Paragraph 5. Defendant is without sufficient knowledge to admit or deny the remaining allegations in Paragraph 5.
6. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 6 but denied the characterization that the events were “successful.”

7. Defendant admits the allegations in the first sentence in Paragraph 7 to the extent Plaintiff applied for a permit. Defendant is without sufficient knowledge to admit or deny the remaining allegations in Paragraph 7.

8. Defendant admits that City Manager Joseph Price sent a letter to AATAG denying AATAG's permit application, but Defendant is without sufficient knowledge to admit or deny when AATAG received the letter. Defendant admits the allegations contained in the remainder of Paragraph 8.

9. Defendant denies the allegations in Paragraph 9.

10. Defendant denies the allegations contained in Paragraph 10.

11. Defendant denies the allegations in Paragraph 11.

12. Defendant denies the allegations in Paragraph 12.

JURISDICTION AND VENUE

13. Defendant admits the allegations in Paragraph 13.

14. Defendant admits the allegations in Paragraph 14.

15. Defendant admits the allegations in Paragraph 15 generally but deny Plaintiff is entitled to any such relief.

16. Defendant admits the allegations in Paragraph 16.

17. Defendant admits the allegations in Paragraph 17.

PARTIES

18. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 18.

19. Defendant admits the allegations in Paragraph 19.

FACTUAL BACKGROUND

Defendant is without sufficient knowledge to admit or deny that AATAG speaks up for the marginalized, including the LGBTQ+ community in the Texas Panhandle.

20. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 20.

21. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 21.

22. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 22.

23. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 23.

24. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 24.

Defendant denies as written that drag expresses an artistic and political view point that challenges gender stereotypes.

25. Defendant denies that AATAG's 2022 and 2023 events featured family-friendly drag performances. Defendant is without sufficient knowledge to admit or deny what performances AATAG planned to do for its 2024 Celebration.

26. Defendant denies the allegations in Paragraph 26.

27. Defendant denies the allegations contained in the first sentence in Paragraph 27. Defendant admits that Plaintiff's reference or quote language from a source, but otherwise denies the allegations in the remainder of Paragraph 27.

28. Defendant is without sufficient knowledge to admit or deny the allegations contained in the first sentence in Paragraph 28. Defendant admits that Plaintiff's reference or quote language from a source, but otherwise denies the allegations in the remainder of Paragraph 28.

29. Defendant is without sufficient knowledge to admit or deny the allegations contained in the first sentence in Paragraph 29. Defendant admits that Plaintiff's reference or quote language from a source, but otherwise denies the allegations in the remainder of Paragraph 29.

30. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 30. Defendant admits that Plaintiff's reference or quote language from a source, but otherwise denies the allegations in the remainder of Paragraph 30.

31. Defendant is without sufficient knowledge to admit or deny the allegations contained in the first sentence in Paragraph 31. Defendant admits that Plaintiff's reference or quote language from a source, but otherwise denies the allegations in the remainder of Paragraph 31.

32. Defendant is without sufficient knowledge to admit or deny the allegations contained in the first sentence in Paragraph 31. Defendant admits that Plaintiff's reference or quote language from a source, but otherwise denies the allegations in the remainder of Paragraph 32.

Defendant denies as written that AATAG's family-friendly drag performances in Paul Lindsey Park convey to Canyon audiences that the LGBTQ2+ community deserves support and inclusion and specifically denies that such conduct was "family friendly".

33. Defendant denies the allegations in Paragraph 33.

34. Defendant denies the allegations contained in the first sentence of Paragraph 34. Defendant is without sufficient knowledge to admit or deny the allegations contained in the remainder of Paragraph 34.

35. Defendant denies the allegations contained in the first, second and fourth sentences of Paragraph 35. Defendant is without sufficient knowledge to admit or deny the allegations contained in the third sentence of Paragraph 35.

36. Defendant denies the allegations contained in the first and third sentences of Paragraph 36. Defendant is without sufficient knowledge to admit or deny the allegations contained in the remainder of Paragraph 36.

Defendant admits that the City operates and regulates events at Paul Lindsey Park.

37. Defendant admits the allegations in Paragraph 37.

38. Defendant admits the allegations in Paragraph 38.

39. Defendant admits the allegations in Paragraph 39.

40. Defendant admits the allegations in Paragraph 40.

41. Defendant admits the allegations in Paragraph 41.

42. Defendant admits the allegations in Paragraph 42.

43. Defendant admits the allegations in Paragraph 43

44. Defendant admits the allegations in Paragraph 44.

Defendant denies as written that AATAG hosted a successful event in Paul Lindsey Park in 2022.

45. Defendant admits the allegations in Paragraph 45.

46. Defendant admits the allegations in Paragraph 46.

47. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 47.

48. Defendant is without sufficient knowledge to admit or deny the allegations contained in the first, second, third, and fifth sentences of Paragraph 48. Defendant admits that Plaintiff's

reference or quote language from a source, but otherwise denies the allegations in the remainder of Paragraph 48.

49. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 49.

50. Defendant is without sufficient knowledge to admit or deny the allegations contained in the first, second, third, fourth, fifth, sixth and ninth sentences of Paragraph 50. Defendant admits Canyon Police were called by Plaintiff and asked to prohibit speech and conduct of other persons present. Defendants admits the allegations contained in the eighth sentence of Paragraph 50.

51. Defendant is without sufficient knowledge to admit or deny the allegations contained in the first and second sentences of Paragraph 51. Defendant denies the allegations contained in the third sentence of Paragraph 51 as written. Defendant admits that Plaintiff's reference or quote language from a source, but otherwise denies the allegations in the remainder of Paragraph 51.

AATAG Applies for an Event Permit in 2023, and City of Canyon Officials Receive Complaints from Anti-LGBTQ+ Activists

52. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 52.

53. Defendant admits the allegations in Paragraph 53.

54. Defendant admits the allegations in Paragraph 54.

55. Defendant admits the allegations in Paragraph 55.

56. Defendant admits the allegations in Paragraph 56.

57. Defendant admits the allegations in Paragraph 57.

58. Defendant admits the allegations in Paragraph 58.

59. Defendant admits the allegations in Paragraph 59.

60. Defendant admits the allegations in Paragraph 60.

61. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 61.

62. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 62. Defendant admits that Plaintiff's reference or quote language from a source, but otherwise denies the allegations in the remainder of Paragraph 62.

63. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 63. Defendant admits that Plaintiff's reference or quote language from a source, but otherwise denies the allegations in the remainder of Paragraph 63.

64. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 64.

65. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 65.

66. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 66.

67. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 67.

68. Defendant denies the allegations contained in the first sentence of Paragraph 68. Defendant is without sufficient knowledge to admit or deny the allegations contained in the remainder of Paragraph 68.

69. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 69.

70. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 62. Defendant admits that Plaintiff's reference or quote language from a source, but otherwise denies the allegations in the remainder of Paragraph 27.

71. Defendant admits the allegations in Paragraph 71.

Defendant denies that the City prohibits AATAG from holding a 2024 event.

72. Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph 72.

73. Defendant admits the allegations in Paragraph 73.

74. Defendant admits the allegations in Paragraph 74.

75. Defendant admits the allegations contained in Paragraph 75.

76. Defendant admits the allegations in Paragraph 76 that there was a message left by Sam Burnett on February 21, 2024 while the City Manager was on travel, but otherwise is without sufficient knowledge to admit or deny the allegations contained in Paragraph 76.

77. Defendant admits the allegations in Paragraph 77.

78. Defendant denies the allegations in Paragraph 78 as written. Several persons or groups have discouraged or not been allowed to submit permit applications due to issues such as late timing, impossibility, etc.

79. Defendant denies the allegations in Paragraph 79.

80. Defendant denies the allegations contained in the first sentence of Paragraph 80. Defendant is without sufficient information to admit or deny the allegations contained in the remainder of Paragraph 80.

81. Defendant denies the allegations contained in the first sentence of Paragraph 81. Defendant is without sufficient information to admit or deny the allegations contained in the remainder of Paragraph 81.

INJURIES TO PLAINTIFFS

82. Defendant reasserts and incorporates by reference all responses to the above-numbered paragraphs.

Defendant denies that the City of Canyon caused irreparable harm by preventing AATAG from communicating its intended message to its intended audience.

83. Defendant denies the allegations contained in the first sentence of Paragraph 83. Defendant without sufficient knowledge to admit or deny the allegations contained in the second sentence of Paragraph 83. Defendant admits the allegations contained in the third sentence of Paragraph 83.

84. Defendant is without sufficient knowledge to admit or deny the allegations contained in the first two sentences in Paragraph 84. Defendant denies the allegations contained in the remainder of Paragraph 84.

85. Defendant denies the allegations contained in the first and third sentences of Paragraph 85. Defendant without sufficient knowledge to admit or deny the allegations contained in the remainder of Paragraph 85.

Defendant denies that the City's actions caused AATAG financial harm.

86. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 86.

87. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 87.

88. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 88.

Defendant denies that the City's actions caused AATAG reputational harm.

89. Defendant denies the allegations in Paragraph 89.

90. Defendant denies the allegations in Paragraph 90.

Defendant denies that the City's actions are causing AATAG ongoing, irreparable harm by prohibiting AATAG from holding additional events in Canyon.

91. Defendant denies the allegations in Paragraph 91

92. Defendant is without sufficient knowledge to admit or deny the allegations contained in the first sentence in Paragraph 92. Defendant denies the allegations contained in the remainder of Paragraph 92.

FIRST CAUSE OF ACTION

First Amendment Violation (42 U.S.C. § 1983) Content- and Viewpoint-Based Discrimination in a Public Forum

93. Defendant reasserts and incorporates by reference all responses to the above-numbered paragraphs.

94. Defendant denies the allegations in Paragraph 94.

95. Defendant denies the allegations in Paragraph 95.

96. Defendant denies that Plaintiff's summary of the law is accurate and/or complete, and further denies that any response is required to Paragraph 96.

97. Defendant denies that Plaintiff's summary of the law is accurate and/or complete, and further denies that any response is required to Paragraph 97.

98. Defendant denies the allegations in Paragraph 98.

99. Defendant denies the allegations contained in the first, second, third and sixth

sentences in Paragraph 99. Defendant denies that Plaintiff's summary of the law in the fourth sentence of Paragraph 99 is accurate and/or complete, and further denies that any response is required to this sentence. Defendant denies the fifth sentence of Paragraph 99 as written.

100. Defendant denies the allegations in Paragraph 100.

101. Defendant denies the allegations in Paragraph 101.

102. Defendant denies that Plaintiff's summaries of the law in the first and fourth sentences of Paragraph 102 are accurate and/or complete, and further denies that any response is required to these sentences. Defendant admits the allegations contained in the second and third sentences of Paragraph 102.

103. Defendant denies the allegations in Paragraph 103.

104. Defendant denies the allegations in Paragraph 104.

105. Defendant denies the allegations in Paragraph 105.

SECOND CAUSE OF ACTION

First Amendment Violation (42 U.S.C. § 1983) Prior Restraint

106. Defendant reasserts and incorporates by reference all responses to the above-numbered paragraphs.

107. Defendant denies that Plaintiff's summary of the law is accurate and/or complete, and further denies that any response is required to Paragraph 107.

108. Defendant denies the allegations contained in the first, second, and sixth sentences in Paragraph 108. Defendant denies that Plaintiff's summaries of the law in the third and fourth sentences of Paragraph 108 are accurate and/or complete, and further denies that any response is required to these sentences. Defendant admits the fifth sentence of Paragraph 108.

109. Defendant denies the allegations in Paragraph 109.

110. Defendant denies the allegations in Paragraph 110.

111. Defendant denies the allegations in Paragraph 111.

112. Defendant denies the allegations in Paragraph 112.

113. Defendant denies the allegations in Paragraph 113.

PLAINTIFF'S PRAYER FOR RELIEF

Defendant denies that Plaintiff is entitled to the relief sought in all subparts of Plaintiff's prayer.

DEFENDANT'S AFFIRMATIVE DEFENSES

114. Defendant asserts Plaintiff failed to exhaust administrative remedies available to Plaintiff.

115. Defendant asserts Plaintiff is not entitled to any recovery or damages because Defendant is entitled to governmental immunity and Eleventh Amendment immunity for claims asserted by Plaintiff.

116. Defendant acted as a reasonable governmental entity would have in the same or similar circumstances in light of clearly established constitutional law.

117. Defendant asserts Plaintiff failed to make reasonable efforts to mitigate damages.

118. Defendant asserts Plaintiff is not entitled to an award of attorney fees.

119. Defendant reserves the right to assert additional affirmative defenses including those that become known in the course of this litigation.

PRAYER

WHEREFORE, premises considered Defendant City of Canyon prays that it be discharged from any and all liability and that it be awarded any other relief to which it may be entitled, be it legal or equitable.

Respectfully submitted,

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By: /s/ Slater C. Elza
Slater C. Elza

ATTORNEYS FOR CITY OF CANYON

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of October 2024, a true and correct copy of the above document was served via the Court's ECF system on all counsel of record.

/s/ Slater C. Elza
Slater C. Elza